

UNITED STATES COURT OF APPEALS

FEB 4 2002

TENTH CIRCUIT

PATRICK FISHER
Clerk

JONATHAN CARLOS BROWN,

Plaintiff-Appellant,

v.

JOHN SUTHERS, Executive Director
for the Colorado Department of
Corrections; MR. NEUFELD; MR.
LAWSON; MR. MCGARRY;
Unknown Access Officials; Unknown
Limon Medical Officials; Other
Unknown D.O.C. Officials,

Defendants-Appellees.

No. 01-1505

(D.C. No. 01-Z-1287)

(D. Colo.)

ORDER AND JUDGMENT*

Before **SEYMOUR** and **McKAY**, Circuit Judges, and **BRORBY**, Senior Circuit Judge.

After examining the briefs and the appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G).

The case is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

This is a pro se state prisoner 42 U.S.C. § 1983 civil rights appeal. Mr. Brown seeks damages and injunctive relief on his claim that prison officials are not adequately providing him with medical care. The district court dismissed Mr. Brown's complaint as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B) because his complaint and amended complaint failed to establish the Defendants' personal participation in the alleged deprivation of his constitutional rights. The district court denied Mr. Brown's motion for reconsideration. Mr. Brown appealed to this court.

Mr. Brown failed to allege the essential element of personal participation of any of the Defendants as is required in a § 1983 civil rights action. See Bennett v. Passic, 545 F.2d 1260, 1262-63 (10th Cir. 1976). Therefore, after a thorough review of the briefs and the record, and for substantially the same reasons set forth in the district court's well-reasoned October 10, 2001 Order and Judgment of Dismissal, we hold that no relief is available to Mr. Brown.

Appellant's appeal is DISMISSED.

ENTERED FOR THE COURT

Monroe G. McKay
Circuit Judge